

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:05CR332
	)	
v.	)	
	)	
JOHN WAYNE LINDSEY,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before the Court on defendant's motion for appointment of counsel for filing motion under 28 U.S.C. § 2255 (Filing No. 48). The Court notes defendant has previously filed such a motion (Filing No. 43), and said motion was denied by this Court on August 17, 2007 (Filing Nos. 45 and 46).

In order to file a second or successive § 2255 motion challenging a conviction or sentence, a defendant must first obtain circuit court certification. 28 U.S.C. § 2255 (2001). Because the defendant has not received approval from the Eighth Circuit to file a second or successive § 2255 motion, the Court would lack jurisdiction over a subsequent § 2255 motion. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000); *United States v. Alvarez-Ramirez*, 128 F.Supp.2d 1265, 1267 (C.D.Cal. 2001). Defendant's motion for appointment of counsel and for extension of time will be denied. Accordingly,

IT IS ORDERED that defendant's motion for appointment of counsel and for extension of time is denied.

DATED this 19th day of September, 2007.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court